

Juan R. Colon Ortiz 3-23-2005  
Euclides Soto, et al. v. Sherman-Feinberg Corporation, et al.

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF MASSACHUSETTS  
3

4 C.A. No. 04-10892-JLT  
5

6 \*\*\*\*\*

7 EUCLIDES SOTO ET AL

8 Plaintiffs

9 vs.

10 SHERMAN-FEINBERG CORPORATION,

11 FARNSWORTH FIBRE CORPORATION and

12 UNITED STEELWORKERS OF AMERICA,

13 LOCAL 421-U

14 Defendants

15 \*\*\*\*\*

16 DEPOSITION OF JUAN R. COLON ORTIZ, taken  
17 on behalf of the Defendants, pursuant to the  
18 Massachusetts Rules of Civil Procedure, before Gail A.  
19 Carignan, Professional Shorthand Reporter and Notary  
20 Public, within and for the Commonwealth of Massachusetts,  
21 at the Law Offices of Pyle, Rome, Lichten, Ehrenberg &  
22 Liss-Riordan, P.C., 18 Tremont Street, Boston,  
23 Massachusetts, commencing at 9:45 a.m. on Wednesday,  
24 March 23, 2005.

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2		4	
1	APPEARANCES	1	PROCEEDINGS
2		2	
3	LAW OFFICES OF ROBERT O. BERGER	3	JUAN R. COLON ORTIZ,
4	by Robert O. Berger, Esq.	4	having been satisfactorily identified by the
5	11 Beacon Street, Suite 1210	5	production of his Massachusetts driver's license,
6	Boston, Massachusetts 02108	6	and duly sworn through the interpreter by the Notary
7	On behalf of the Plaintiffs	7	Public, was examined and testified as follows:
8		8	
9	LAW OFFICES OF PYLE, ROME, LICHTEN, EHRENBERG &	9	EXAMINATION BY MR. LICHTEN:
10	LISS-RIORDAN, P.C.	10	Q. Good morning. Can you state your name for the
11	by Harold L. Lichten, Esq.	11	record.
12	18 Tremont Street, 5th Floor	12	A. Juan R. Colon Ortiz.
13	Boston, Massachusetts 02108	13	Q. And where do you live?
14	On behalf of the Defendants	14	A. McGreevey Way.
15		15	Q. In what town?
16	Also present:	16	A. Boston, Massachusetts.
17	Jossethe L. Cornavaca, Interpreter	17	Q. How old are you?
18	P.O. Box 131 Backbay	18	A. I am 55 years old.
19	Boston, MA 02117	19	Q. And how long have you lived in the United States?
20		20	A. 20 years.
21	Lowell Alexander, United Steelworkers of America	21	Q. How long did you work at Farnsworth Fibre for?
22		22	A. I worked there 18, almost 19 years.
23		23	Q. And during the time that you worked at Farnsworth
24		24	Fibre, was that the only job you had, or did you
3		5	
1	INDEX	1	have any second jobs?
2		2	A. No. I only had that job.
3	DEPONENT PAGE	3	Q. Okay. And are you married and do you have children?
4		4	A. I am married and I'm also divorced.
5	Juan R. Colon	5	Q. And do you have any children?
6		6	A. Yes.
7	EXAMINATION BY MR. LICHTEN 4	7	Q. During the time that you worked at Farnsworth Fibre,
8	EXAMINATION BY MR. BERGER 17	8	did you have health insurance?
9		9	A. Yes.
10		10	Q. And during the time that you were there, do you
11	EXHIBITS	11	recall whether your health insurance was paid for or
12	No exhibits were marked.	12	whether you had to pay anything for it?
13		13	A. Yes. They took it from the check, yes.
14		14	Q. Do you remember how much they took from the check?
15		15	A. I don't know. I don't remember.
16		16	Q. Are you aware as to whether or not Farnsworth Fibre
17		17	made pension contributions on your behalf to the
18		18	Steelworkers pension fund?
19		19	A. Yes.
20		20	Q. Do you know how much they paid?
21		21	A. I don't remember. I don't remember.
22		22	Q. Since you've stopped working at Farnsworth Fibre,
23		23	have you received any papers, or have you made any
24		24	inquiries, about the status of your pension money

2 (Pages 2 to 5)

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<p>6</p> <p>1 with the Steelworkers?</p> <p>2 A. No.</p> <p>3 Q. Have you attempted to call them?</p> <p>4 A. I've tried to, but since I don't speak English, it</p> <p>5 makes it very difficult.</p> <p>6 Q. Who did you try to call?</p> <p>7 A. I don't know who the guy was to call because they</p> <p>8 have a telephone number.</p> <p>9 Q. And did you call the telephone number?</p> <p>10 A. Yes, I called. And I would call this phone number,</p> <p>11 but sometimes it was busy.</p> <p>12 Q. Did you speak to anyone there when you called?</p> <p>13 A. No.</p> <p>14 Q. Okay. Do you have an understanding of whether or</p> <p>15 not you have a vested pension money with the</p> <p>16 Steelworkers that you will be entitled to get</p> <p>17 eventually?</p> <p>18 A. Yes.</p> <p>19 Q. And when do you understand you will be able to begin</p> <p>20 taking your pension?</p> <p>21 A. I couldn't tell you. I don't know.</p> <p>22 Q. After you stopped working at Farnsworth Fibre, did</p> <p>23 you work anywhere else?</p> <p>24 A. No, no.</p>	<p>8</p> <p>1 A. No.</p> <p>2 (Brief interruption)</p> <p>3 Q. Have you applied for social security?</p> <p>4 A. Yes, I applied.</p> <p>5 Q. And have you gotten a decision yet on your social</p> <p>6 security?</p> <p>7 A. Yes. They said that they were going to give me</p> <p>8 social security, and they gave me, but, you know,</p> <p>9 they were delayed a little.</p> <p>10 Q. Maybe you didn't understand my prior question. So</p> <p>11 you are receiving Social Security Disability?</p> <p>12 A. Yes. From social security.</p> <p>13 Q. And when did you apply for social security?</p> <p>14 A. I don't remember.</p> <p>15 Q. Was it after you received the unemployment benefits</p> <p>16 that you applied for social security?</p> <p>17 A. Yes.</p> <p>18 Q. And how much do you receive in social security a</p> <p>19 month?</p> <p>20 A. 992.</p> <p>21 Q. And do you have health insurance through social</p> <p>22 security?</p> <p>23 A. Yes.</p> <p>24 Q. And what is your medical condition for which you</p>
<p>7</p> <p>1 Q. So it's your testimony that you have not worked at</p> <p>2 all since you stopped working at Farnsworth Fibre?</p> <p>3 THE INTERPRETER: I'm sorry. If I</p> <p>4 may, he didn't let me translate. He kept going.</p> <p>5 A. Because also, I couldn't work because I was sick. I</p> <p>6 was sick because of working there because I used to</p> <p>7 work with chemicals. So I went to the hospital, and</p> <p>8 the doctor, they checked my lungs. If you want to</p> <p>9 look at it, I have my prescription and everything</p> <p>10 that I take for my lungs here.</p> <p>11 Q. Well, we've got to take one question at a time. My</p> <p>12 first question is whether you worked at all since</p> <p>13 you stopped working at Farnsworth Fibre?</p> <p>14 A. No.</p> <p>15 Q. Have you looked for work since you stopped working</p> <p>16 at Farnsworth Fibre?</p> <p>17 A. I've looked. I've tried, but no, no.</p> <p>18 Q. Did you collect unemployment after you stopped</p> <p>19 working at Farnsworth Fibre?</p> <p>20 A. Yes. Unemployment, yes. You mean, collect</p> <p>21 unemployment?</p> <p>22 Q. Yes. For how long did you receive unemployment?</p> <p>23 A. Eight months.</p> <p>24 Q. Do you currently receive any type of disability pay?</p>	<p>9</p> <p>1 receive the social security?</p> <p>2 A. I have a vein that's clogged here in my heart, and</p> <p>3 then I spoke to the doctor and he said that he's</p> <p>4 going to operate on me, and he's going to take a</p> <p>5 tube — tubing. He's going to put in a tube or</p> <p>6 tubing, and he's going to take something from my leg</p> <p>7 and put it there.</p> <p>8 Q. Like what Bill Clinton had?</p> <p>9 A. Mm-hmm.</p> <p>10 Q. So if I understand your condition, the condition you</p> <p>11 suffer now, is a heart condition?</p> <p>12 A. Yes, from the heart.</p> <p>13 Q. I believe you said that there was something — some</p> <p>14 of your work at Farnsworth Fibre also caused you to</p> <p>15 be disabled; is that right?</p> <p>16 MR. BERGER: Objection as to form.</p> <p>17 A. Yes.</p> <p>18 Q. And is that the same heart condition that you've</p> <p>19 just testified about, or is that some other medical</p> <p>20 condition that you have?</p> <p>21 A. I guess it would be the same because what killed me</p> <p>22 were the chemicals there because I was doing fine</p> <p>23 before.</p> <p>24 Q. When did you first start getting treated for this</p>

3 (Pages 6 to 9)

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<p>10</p> <p>1 heart condition?</p> <p>2 A. When I went to the hospital, they gave me a checkup,</p> <p>3 but I don't remember the date.</p> <p>4 Q. Was it before or after you stopped working at</p> <p>5 Farnsworth Fibre?</p> <p>6 THE INTERPRETER: I mean, that he</p> <p>7 went to the hospital?</p> <p>8 MR. LICHTEN: Yes, exactly.</p> <p>9 A. When I stopped working, yes.</p> <p>10 Q. So if I understand what you're saying, you believe</p> <p>11 that your work at Farnsworth Fibre caused you to</p> <p>12 have this heart condition; is that right?</p> <p>13 A. Yes, because my job was really hard. They exploited</p> <p>14 me there, and I used to work with all this different</p> <p>15 [verbatim] tanks. Different tanks, I would take</p> <p>16 paint from one tank and put it in another tank.</p> <p>17 Q. Have any of your doctors told you that your heart</p> <p>18 condition was caused by your work at Farnsworth</p> <p>19 Fibre?</p> <p>20 A. Yes. I left that place for a while because a</p> <p>21 problem that I have with my lung or my lungs, and</p> <p>22 they gave me some sort of pills, medication, to see</p> <p>23 if it would clear them up, but --</p> <p>24 Q. Let me ask you: Have any of your doctors told you</p>	<p>12</p> <p>1 A. I couldn't tell you.</p> <p>2 Q. About how much a year would you earn on overtime?</p> <p>3 A. You mean everything included or --</p> <p>4 Q. No. I'm just trying to find how much on average you</p> <p>5 make in a year on overtime.</p> <p>6 A. Oh, no. I couldn't tell you.</p> <p>7 Q. Okay. Would overtime -- did you work overtime all</p> <p>8 the time or just occasionally?</p> <p>9 A. Once in a while. When they had a layoff, some of</p> <p>10 the workers, I used to work the night shift so then</p> <p>11 they made me work the day. I would work from 6 a.m.</p> <p>12 until 7 p.m.</p> <p>13 Q. When you say layoffs, when you first began working</p> <p>14 at Farnsworth Fibre, were there a lot more employees</p> <p>15 working in the plant than there were by the time the</p> <p>16 plant shut down?</p> <p>17 A. The weeks -- a couple of week before they closed,</p> <p>18 they laid some people off. And they tried to let me</p> <p>19 go, but then I stayed, and I stayed one extra week,</p> <p>20 and after that, they closed.</p> <p>21 Q. When you first began working at Farnsworth Fibre,</p> <p>22 about how many employees worked in the plant?</p> <p>23 A. There were nine.</p> <p>24 Q. During the time that you were at Farnsworth Fibre,</p>
<p>11</p> <p>1 that your medical condition was caused by the work</p> <p>2 at Farnsworth Fibre?</p> <p>3 A. No. The doctors haven't said that to me.</p> <p>4 Q. Have you filed any Workers' Compensation claim as a</p> <p>5 result of your -- the medical condition that you</p> <p>6 believe was caused by Farnsworth Fibre?</p> <p>7 A. No.</p> <p>8 Q. What was your job at Farnsworth Fibre for the last</p> <p>9 couple of years?</p> <p>10 A. I prepared these tanks.</p> <p>11 Q. What was in the tanks?</p> <p>12 A. It's paint, prepare the paint.</p> <p>13 Q. What was the paint used for?</p> <p>14 A. To paint the material.</p> <p>15 Q. How much were you getting paid when you stopped</p> <p>16 working at Farnsworth Fibre?</p> <p>17 A. I used to make 10.85 an hour.</p> <p>18 Q. And was there overtime work -- did you work overtime</p> <p>19 at Farnsworth Fibre?</p> <p>20 A. Yes.</p> <p>21 Q. And did you work a lot of -- in the last several</p> <p>22 years before you stopped working at Farnsworth</p> <p>23 Fibre, about how much overtime would you estimate</p> <p>24 you worked on average each week?</p>	<p>13</p> <p>1 did you ever participate in an election to elect</p> <p>2 your union steward?</p> <p>3 A. Oh, yes.</p> <p>4 Q. And were you yourself -- did you ever try to be a</p> <p>5 union steward or run for union steward?</p> <p>6 A. No.</p> <p>7 Q. Did you know some of the union stewards who were</p> <p>8 elected?</p> <p>9 A. Yes.</p> <p>10 Q. And who were the ones that you knew?</p> <p>11 A. The only one, Riquito Ortiz and Miguel DeJesus.</p> <p>12 Q. And both Miguel and Riquito worked at Farnsworth</p> <p>13 until it closed down?</p> <p>14 A. The two of them worked there, but then they didn't</p> <p>15 work when they closed.</p> <p>16 Q. And now, did you ever go to Mr. Ortiz or</p> <p>17 Mr. DeJesus with any complaints or grievances that</p> <p>18 you wanted them to help you with?</p> <p>19 A. No.</p> <p>20 Q. Did you ever complain to any of your supervisors or</p> <p>21 any management officials at Farnsworth Fibre about</p> <p>22 any complaints or grievances or unfair treatment</p> <p>23 that you think you experienced at Farnsworth Fibre?</p> <p>24 A. No.</p>

4 (Pages 10 to 13)

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<p style="text-align: right;">14</p> <p>1 Q. What did you understand Mr. Ortiz -- Riquito -- and  2 Mr. DeJesus' responsibilities were as union  3 stewards?  4 A. Yes, because he was chosen. We chose him the person  5 to represent us at the union.  6 Q. Let me try the question again: What did you  7 understand were their duties and responsibilities as  8 the steward?  9 A. If somebody would try to fire you from your job or  10 they would put too much pressure on you, then I  11 would speak to them.  12 Q. And I think I already asked this, but did you ever  13 go to Mr. Ortiz or Mr. DeJesus about a complaint or  14 grievance about your job?  15 A. No, no.  16 Q. Did you ever attempt to contact the Steelworkers  17 office about any complaint or grievance about your  18 job?  19 A. No.  20 Q. Do you remember in the fall of 2003 before the plant  21 closed there being a meeting at Farnsworth Fibre  22 between the workers in the union and representatives  23 of the Steelworkers union, including Mr. Alexander,  24 who's sitting next to me?</p>	<p style="text-align: right;">16</p> <p>1 A. You mean the contract?  2 Q. Yes.  3 THE INTERPRETER: I'll repeat the  4 question again.  5 A. Yes.  6 Q. And the last contract, do you recall whether you  7 voted for that contract or against that contract?  8 A. I don't remember.  9 Q. Do you remember at some point in time getting a copy  10 of the contract in Spanish?  11 A. Yes.  12 Q. At the meeting that you do remember taking place  13 with the union, after the company announced it was  14 closing, do you remember Mr. Alexander, the person  15 sitting next to me, being there?  16 A. No, I don't remember.  17 Q. Do you remember there being a woman there from the  18 Steelworkers union?  19 A. Yes.  20 Q. Do you remember anything that she said?  21 A. No, I don't remember.  22 Q. Did you say anything at the meeting?  23 A. No.  24 MR. LICHTEN: I have nothing further.</p>
<p style="text-align: right;">15</p> <p>1 A. Yes. There was a meeting.  2 Q. And was there one meeting or more than one meeting  3 that you remember?  4 A. One only.  5 Q. And was that before or after the union announced it  6 was shutting down -- I'm sorry -- the company  7 announced it was shutting down?  8 A. After.  9 Q. Do you recall a meeting that was held in September  10 of 2003 with Mr. Alexander present before the  11 company announced its plans to shut down?  12 A. No, I don't remember.  13 Q. But do you remember having a union meeting in --  14 A. You have to understand that I worked at night.  15 Q. I see. So you worked the night shift?  16 A. Yes, at night.  17 Q. What were your hours?  18 A. From 2:30 p.m. until 11:30 p.m.  19 Q. Do you remember that in 2002, the union negotiated a  20 new contract?  21 A. No, I don't remember.  22 Q. Okay. Do you remember that from time to time, you  23 would vote on whether to accept or not accept a new  24 contract?</p>	<p style="text-align: right;">17</p> <p>1 Thank you.  2 EXAMINATION BY MR. BERGER:  3 Q. Did the union provide notices at your plant?  4 A. I don't understand.  5 Q. Okay. Did the union have a board where they put up  6 notices?  7 A. No.  8 Q. Did the company have notices about Worker's Comp  9 rights?  10 A. No.  11 Q. The same for OSHA?  12 THE INTERPRETER: If I may, when you  13 say, "The same for Osha" --  14 Q. Was there any notices about OSHA?  15 A. No.  16 Q. Now, you said earlier that the doctors didn't tell  17 you about the injuries being caused by work. Is  18 that roughly what you said?  19 A. Well, the only thing the doctor asked me is that if  20 I worked with chemicals, and I said yes.  21 Q. And the doctor, I take it, wrote a lot of reports?  22 A. No.  23 Q. Did he write some reports for you when you applied  24 for social security?</p>

5 (Pages 14 to 17)

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18	20
1 A. Oh, that was through welfare.	1 taking the pills and I'm not there.
2 Q. So some of the things that are written were things	2 Q. Did you go to the doctor because you were spitting
3 that he didn't say to you; is that correct?	3 blood?
4 A. No.	4 A. Yes.
5 Q. The medical opinions that you used at the process	5 Q. And who is your doctor?
6 for social security were written, were they not?	6 A. Manfio, M-A-N-F-I-O.
7 A. Yes.	7 Q. Now, when you were working there, did the union ever
8 Q. Okay. And some of those written records may differ	8 supervise -- did the union even look at where you
9 from what he has said to you?	9 worked?
10 A. Different.	10 A. No.
11 Q. More detailed?	11 Q. Were you aware that they had meetings four times a
12 A. I don't understand.	12 year?
13 Q. I'll let it go. Can you tell us what happened when	13 A. No, because I was working the night shift. And if
14 you were preparing the tanks for paint?	14 they would come, they would come in the morning at
15 A. I would go downstairs and would get the tank. These	15 10.
16 are like containers they have for the paint. They	16 Q. Do you have any other friends who spit blood?
17 call it, like, a tray.	17 MR. LICHTEN: Objection.
18 Q. How large?	18 A. No. On the second floor, they would do some testing
19 A. It was really big.	19 for people's lungs with some sort of pump on the
20 Q. What did you wear on your face?	20 second floor. To the people upstairs, they would do
21 A. Yes. Like a little mask.	21 this testing, but they wouldn't test me.
22 Q. Then what did you do? Tell us the process of your	22 Q. Why not?
23 job. Would you change into other clothes?	23 A. I don't know.
24 A. I would change my clothes.	24 Q. Now, during the entire period you were there, did
19	21
1 Q. So did you wear the same uniform every day?	1 the union do anything for you?
2 A. No. It wasn't a uniform. It was like --	2 MR. LICHTEN: Objection.
3 Q. There was no uniform?	3 A. No, nothing.
4 A. Plain clothes.	4 Q. And is that, in your opinion, Mr. Ortiz's fault?
5 Q. Did you take any shower after you did your job?	5 A. Not Ortiz. He's not guilty of anything.
6 A. No. Not there, no.	6 Q. So what's the problem?
7 Q. How often --	7 MR. LICHTEN: Objection.
8 A. There were no showers there.	8 A. The problem was the company.
9 Q. And how often did you change your clothes?	9 Q. And what did the union do with the company to
10 A. I would bring my own clothes to work.	10 protect you?
11 Q. Was there a changing station?	11 A. They didn't do anything. A lot of work, but no
12 A. No.	12 help.
13 Q. So what did the chemicals smell like?	13 (Deposition concluded at 10:25 a.m.)
14 A. It smelled like paint, like strong paint.	14
15 Q. And do you know what was in the paint?	15
16 A. No, I don't know.	16
17 Q. Now, how many years did you work with the paint?	17
18 A. 18 years.	18
19 Q. And what are your problems with your lungs?	19
20 A. Sometimes I don't breathe at all, and I cough or	20
21 spit blood.	21
22 Q. How much blood do you spit?	22
23 A. Sometimes two or three times a week. Now, I don't	23
24 spit as much blood as I used to before because I'm	24

6 (Pages 18 to 21)

1 CERTIFICATE  
2  
3 COMMONWEALTH OF MASSACHUSETTS  
4 BRISTOL, SS.  
5  
6 I, Gail A. Carignan, a Professional Shorthand  
7 Reporter and Notary Public in and for the Commonwealth of  
8 Massachusetts, do hereby certify that Juan R. Colon  
9 Ortiz, the witness whose deposition is hereinbefore set  
10 forth, was duly sworn by me and that such deposition is a  
11 true and accurate record, to the best of my knowledge,  
12 skills and ability, of the testimony given by such  
13 witness.  
14 IN WITNESS WHEREOF, I have hereunto set my hand  
15 and seal this 28th day of March, 2005.  
16  
17  
18  
19  
20 Gail A. Carignan  
Notary Public  
21  
22 My commission expires:  
March 16, 2012  
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